

EXECUTIVE SUMMARY SHEET
CITY OF SAN DIEGO

DATE: June 16, 2010

ATTENTION: Natural Resources & Culture Committee

ORIGINATING DEPARTMENT: Storm Water Department, Pollution Prevention Division

SUBJECT: Authorizing a First Amendment to the Agreement with MWH Americas, Inc. to Provide Additional Expert Technical Services and Studies of a 60-Inch Storm Water Conveyance Terminating in Convair Lagoon.

COUNCIL DISTRICT(S): 2, Faulconer

CONTACT/PHONE NUMBER: Ruth Kolb, (858) 541-4328, MS 1900

REQUESTED ACTION:

Council authorization to execute a First Amendment to the MWH Americas, Inc. Agreement for a value not-to-exceed \$438,704 for expert consultant services, investigations and studies related to the 60-inch storm drain pipe terminating in Convair Lagoon for a total Agreement Authorization of \$638,672; and, authorizing the Chief Financial Officer to appropriate and expend in the amount not-to exceed \$438,704 from the Fiscal Year 2011 Storm Water Department operating budget to provide funds for the Amendment contingent upon approval of the Fiscal Year 2011 Appropriation Ordinance and contingent upon Comptroller's certifying that funds are available.

STAFF RECOMMENDATION: Approve the Requested Actions.

EXECUTIVE SUMMARY: The City of San Diego has a 60-inch storm drain pipe which starts north of Pacific Highway, passes onto the former General Dynamics Lindbergh Field property, to the San Diego Airport Lindbergh Field (Airport), to TDY Industries, Inc., and eventually discharges to San Diego Bay at Convair Lagoon (Lagoon). Concentrations of polychlorinated biphenyls (PCBs) in sediment have been found in the 60-inch pipe and in Convair Lagoon. In the mid-1990's, a Clean-up & Abatement Order (CAO) was issued by the San Diego Regional Water Quality Control Board (Regional Board) to TDY Industries (formerly Teledyne Ryan Aeronautical) for PCBs found in Lagoon sediment. A remediation cap was constructed to encapsulate the Lagoon PCBs. In 2001, the Regional Board issued Water Code Section 13267 enforcement letters to the City of San Diego, TDY Industries, Inc., San Diego Unified Port District, and U.S. Marine Corps. That enforcement action ordered a study to determine the sources of PCB contamination that accumulated on top of the Lagoon remediation cap. In 2005, the Regional Board issued another CAO to TDY Industries, Inc. for the release of PCB-contaminated soils off of the TDY site into the Lagoon. On June 28, 2007, the U.S. Environmental Protection Agency (EPA) approved the 40 CFR Section 303(d) listing for the San

Diego region that included all of San Diego Bay water as being impaired by PCBs in the Bay Sediments.

PCBs, in concentrations greater than the 4.6 mg/kg action level, have been found in the 60-inch storm drain pipe upstream of the TDY Industries site. In addition to the 2005 CAO, the Regional Board is preparing to issue new orders to investigate sources of PCBs upstream of the TDY Industries site. In advance of this order and to avoid being named as a discharger, the City wishes to continue the investigation of PCBs sediments in the drainage area of the 60-inch storm drain pipe that leads to the Airport and ultimately drains to Convair Lagoon.

As a Regional Municipal Storm Water Permit Copermittee, the City must comply with those conditions and requirements. Per permit requirement D.3.d, the City is required to comply with the provision that “As operators of the MS4s, the Copermittees cannot passively receive and discharge pollutants from third parties. By providing free and open access to an MS4 that conveys discharges to waters of the U.S., the operator essentially accepts responsibility for discharges into the MS4 that it does not prohibit or control. These discharges may cause or contribute to a condition of contamination or a violation of water quality standards.” This permit requirement compels the City to continue investigating sources of PCBs, identify pollutant sources, and abate them.

MWH Americas, Inc. (MWH) has a current task order and an understanding of this case including its 20-year history of causes and contributions of PCBs in San Diego Bay, and on the remediation cap in Convair Lagoon. The proposed MWH Agreement Amendment is for a twelve (12) month period and will provide continued technical expertise in the PCBs investigation in the storm drain system leading to the TDY site. The Amendment would also serve to provide review of TDY site related documents, attendance at monthly meetings at the Regional Board, preparation of quarterly updates to management, PCB fingerprinting and evaluation of relative toxicity, source identification, fate and transport modeling, and preparation of a final report. In addition, MWH will assist the City with providing written comments in response to draft documents prepared by TDY and/or the Regional Board. MWH’s participation at the monthly Regional Board meetings provides the City with an expert knowledge and understanding of the PCB remedial activities and future alternatives impacts that could occur on the site.

The knowledge expected to be obtained from these activities allows the City to better define and defend its position regarding PCB sources and their possible sources above San Diego Bay tidelands.

The Agreement Amendment between MWH and the City Attorney’s office is attached in order to continue MWH’s expert professional services for this important regulatory matter which will almost certainly result in the City defending itself against an impending enforcement action.

FISCAL CONSIDERATIONS: Funding for this Amendment has been budgeted and is anticipated to be available in the Fiscal Year 2011 Storm Water Department (2114), operating budget (Fund 100000) upon approval of the Fiscal Year 2011 Appropriation Ordinance.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: Council authorized the Mayor to enter into a Sole Source Agreement with MWH on July 07, 2009 (R-305061). A CAO has been issued for TDY by the Regional Board, and the City is in jeopardy of being added to that Order based on the findings of studies resulting from this Agreement. The circumstances relating to this investigation and study may be subject to litigation; therefore the specifics in support of this request may be presented in closed session.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None for this action.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: There are no projected impacts anticipated.

Tony Heinrichs
Storm Water Department Director

David Jarrell
Deputy Chief of Public Works